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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.06.2007

C O R A M :

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.A.No. 39 of 2007
and M.P.No.1 of 2007

Anil Kumar Ohja ... Appellant

-vs-

1.The Commissioner of Customs (Exports)
Customs House
No.60 Rajaji Salai
Chennai 1.

2.The Customs Excise and Service Tax
Appellate Tribunal rep. By its Registrar
South Bhavan Annexure
Haddows Road
Chennai 600 006. ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order of the learned single Judge dated made in W.P.No.19089 of 2006 dated 02.11.2006 and modified as per the order dated 01.12.2006 in M.P.No.2 of 2006.

For appellant :: Mr. R. Devaraj

For respondents :: Mr. V.T. Gopalan
Addl. Solicitor General
assisted by Mr. P. Wilson
Assistant Solicitor General

JUDGMENT

(DELIVERED BY P.JYOTHIMANI,J.)

The appellant herein has filed a Writ Petition No.19089 of 2006 against the order of second respondent, the Customs, Excise and Service Tax Appellate Tribunal, Chennai, wherein the petitioner was directed to pre-deposit 25% of the penalty imposed on a sum of Rs.18,75,000/-. By order dated 02.11.2006, the said order of the second respondent was modified by the learned single Judge by reducing the pre-deposit amount to Rs.18 lakhs and directed the petitioner to deposit the said amount within a period of four weeks from the date of the order. Subsequently, when the appellant filed Miscellaneous Petition to modify the above said order dated 02.11.2006, the learned single Judge by order dated

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01.12.2006, dismissed the said miscellaneous petition, however, granted further period of four weeks time to comply with the earlier order dated 02.11.2006. As against the said order, the present appeal is filed by the petitioner in the writ petition.

2. Even though it is the contention raised by the learned counsel for the appellant that the penalty sought to be levied is more than the levy amount, the same is to be decided by the second respondent, Customs, Excise and Service Tax Appellate Tribunal, while deciding the appeal on merits. As regards the further contention raised by the learned counsel for the appellant by relying upon Section 112 of the Customs Act, 1962, that there is a bar in imposing penalty in respect of individual directors when the Company itself has been imposed with the penalty, we do not see any substance in the said contention. A reading of Section 112 of the Customs Act shows that there is no bar in imposing the penalty on the individual directors. In any event, this issue is also to be decided in the appeal. In view of the above said facts, without expressing any opinion about the merits of the appeal, the appellant is directed to comply with the order of the learned single Judge dated 02.11.2006 within a period of eight weeks from the date of receipt of copy of the order.

The writ appeal is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

kh

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To
1.The Commissioner of Customs (Exports)
Customs House
No.60 Rajaji Salai
Chennai 1.

2.The Customs Excise and Service Tax
Appellate Tribunal rep. By its Registrar
South Bhavan Annexure
Haddows Road
Chennai 600 006.
+ Onne cc to Mr. B. Rajendran, Advocate sR 31765
GG (co)
sg 7/6/07

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